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Western Europe Review

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West Germany Seeks US Role in Prosecution of Hijackers

Allied and West German officials have made little headway in settling the jurisdictional dispute over who should try the East Germans responsible for the hijacking late last month of a Polish airliner. US efforts to turn over responsibility for the prosecution of the hijackers to West Berlin authorities have been stymied by British and French concerns over Allied rights, and by West German fears of complicating inter-German relations. Bonn also worries that a lenient verdict by Berlin authorities could damage its efforts to gain international acceptance of the Bonn antihijacking declaration.

The West German Government faces a dilemma. On the one hand, it favors a tough line toward the hijackers to show its support for the Bonn antihijacking declaration and to counteract recriminations by the Soviet Union, Poland, and East Germany, which have demanded the hijackers' extradition. The Allies and the East have put considerable pressure on West Germany to ensure that a strict sentence be handed down or that the government accede to extradition. The West German Bonn Group representative Von Braunmuehl expressed shock over the UK proposal to ensure that the hijackers received a severe sentence or face extradition.* Von Braunmuehl indicated that if any of the Allied powers considered extraditing German nationals to a Communist country, the matter could cloud bilateral relations between West Germany and the Allied powers. The West German Government, in the meantime, has given assurances that its judiciary is independent of political influence and could not be forced to decide one way or the other.

*The Bonn Group is a four-power consultative working-level group composed of representatives from the West German Foreign Office and the three Western Allies, attended, on occasion, by an observer from the Berlin delegation to Bonn. Formed in the late 1950s, the Bonn Group has played an increasingly important role in coordinating all-German matters and the special status of Berlin.

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The government's domestic position, however, may suffer somewhat if the hijackers receive severe sentences. The public sees the hijackers as political refugees. The opposition parties will undoubtedly echo a similar position, even though they generally favor a tough law-and-order stance. The governing coalition already is facing allegations of espionage in Social Democratic ranks and the crucial Hessian State assembly election will be held in early October. Fearing losses, the coalition parties want to avoid further complications that would stem from a severe Berlin court sentence.

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Chancellor Schmidt is aware that the trial of an East German citizen in a West Berlin court would increase tensions with East Germany. Soviet criticism will also accompany a Berlin court trial, given Moscow's view that extension to Berlin of West German ratifications of the Hague and Montreal conventions, which require local authorities either to prosecute or extradite hijackers, represents an impermissible exercise of West German sovereignty over West Berlin. The West Germans are concerned that the East Germans and the Soviets would use the trial of the hijacker by a West German court as evidence that the Allies do not exercise their reserved rights in Berlin in those areas where they claimed to retain such rights, especially in the field of civil aviation. The West German Government fears that the Soviet Union and East Germany might then seek to carry out a campaign of reducing Allied control over air corridors. As all questions of access to Berlin are highly sensitive, East German - Soviet pressure on the most secure routes, the air corridors, could result in a considerable setback in West German as well as Allied relations with the Soviet Union and East Germany.

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The French and British, like the West Germans, would like to see a strict sentence imposed by a specially convened US court, which in their opinion has at least concurrent jurisdiction over air traffic in its sector. However, prosecution before a specially constituted US court raises the unwelcome prospect of prosecution of a German civilian for violation of a German law in an occupation court, a situation that could be readily exploited by the East to emphasize its argument that the Western Sectors of Berlin constitute a "special entity."

Although the US is involved in the case because of general Allied responsibility for civil aviation in Berlin and because the plane landed at Tempelhof airport in the US sector, this does not alter the fact that Berlin authorities are responsible for enforcing criminal law in Berlin. The original Allied action in allowing the Hague convention to be extended to Berlin would be undermined to a great degree by the Anglo-French-German position and would be tantamount to accepting the validity of Soviet protests on the extension to Berlin of West German ratifications of the Hague and Montreal conventions. With the exception of the US, neither the Allies nor the West Germans have yet mentioned that if the Berlin courts do not assume jurisdiction, Western efforts to strengthen West German - Berlin ties will be diluted. All parties, however, agree that regardless of whether the US or West Berlin assumes jurisdiction, a unified Allied position must be maintained.

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Norway: Public Airing of Northern Issues

The Norwegian Government is taking its position on Svalbard and Barents Sea issues to the public to dispel the impression that it is weak and ineffective in dealing with Moscow, and to tell the Soviets it is interested only in reciprocal bargaining on these questions. Prime Minister Nordli delivered a hardhitting speech shortly after Law of the Sea Minister Evensen returned from an unproductive two-day discussion on fisheries regulations with the Soviets in mid-August. Nordli also made public his firm negotiating position on the northern issues. He will not bargain on the continental shelf in the Svalbard area and will make concessions on the Barents Sea economic zone boundary only if the Soviets also make concessions. The next session on fisheries regulation will be in Oslo in mid-October and boundary negotiations will resume early next year. It will be the Soviets' turn to make an offer.

More recently, Undersecretary of Defense Holst, on a tour of NATO facilities in Greenland, said that Norway must avoid bilateral arrangements that give the USSR special rights in the Svalbard area--a point of view rarely articulated by Norwegian officials in public. At the same time, however, the Norwegians seemed to be trying to play down incidents of Soviet violations of Norwegian sovereignty in the north.

Svalbard and Barents Sea Negotiations

All Oslo has to show after more than three years of negotiations with the Soviets on northern economic zones is an unenforceable "gray zone" in the Barents Sea--where the Soviets are supposed to police Soviet fishing, but apparently do not--and a zone in the Svalbard treaty area, where the Soviets refuse to accept a Norwegian declaration of fishery protection. The Soviets want to establish the same kind of self-administration in the disputed waters that they practice on the islands.

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Negotiations to establish borders and rights in the northern maritime areas are conducted on legal and technical grounds that are new or newly applied to economic zones all over the world. The Soviet arguments are at least as well founded as the Norwegian ones and some of Moscow's general positions are shared by Western nations, including NATO members. By signing the Treaty of Spitzbergen in 1924, the USSR recognized the demilitarized status of, and Norwegian sovereignty over, the Svalbard Archipelago. Even so, Moscow wants to exercise its treaty rights to exploit the mineral resources without subjecting Soviet personnel or operations to Norwegian law and has ignored Norway's increasing efforts to exercise sovereignty.

There is no evidence of prohibited military activity by the Soviets, but recent helicopter transport improvements and the oversized staff at the Soviet coal mine on Svalbard suggest that the Soviets could engage in such activities without detection. Some of the Soviet fishing and merchant ships that ply these seas probably are engaged in intelligence gathering functions, and the Soviets may be preparing to spread their mining operations to the more strategically located Bear Island.

Freedom to operate in this area is important to Moscow because of the major strategic missile forces--including home ports for missile submarines--and the primary conventional naval fleet based on the Kola Peninsula. Although the Kola Peninsula can be targeted from thousands of miles away and Soviet submarine-launched missiles can hit Western targets from stations in the Barents Sea, the closer that missile submarines can get to their targets the shorter the reaction time available to the targeted nation. The Soviet surface fleet based on the Kola Peninsula also has its primary operating area to the south and west of the Barents Sea. Control over economic activity there is seen by both sides as essential as cover for military operations. Moscow seeks not only to weaken Norwegian sovereignty in the maritime area but to reduce, wherever possible, NATO access in both the maritime and mainland areas of Norway.

Norway's position is based on its experience in establishing the maritime zone borders in the North Sea. Evensen, in negotiating for this zone, successfully claimed the

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richest oil fields in the North Sea. He is using the same arguments again in negotiations with the Soviets--and the 40 other signatories of the Treaty of Spitzbergen, although they do not exercise their rights--for an extension of Norwegian zonal claims in the ocean areas of the Svalbard Archipelago. Moscow refuses to accept the argument that the provisions of the treaty stop at the four-mile limit around each island, and none of the NATO signatories has endorsed such an interpretation. Current negotiations on the administration and enforcement of fishing regulations in this area are stalemated on the provisions that reflect this principle.

The Soviets have refused to acknowledge Oslo's rights to regulate Soviet activities on the land areas in the archipelago, and they wish to follow this pattern in the ocean area. They insist on keeping their personnel and operations--larger than the Norwegian presence--subject to Soviet law and refuse to report directly to Norwegian authorities. There have been a number of diplomatic incidents as a result. Oslo has made formal demarches after the Soviets failed to report such events as helicopter accidents. Oslo's tactic appears to be to increase its surveillance capabilities and to become involved in any case where it has a legitimate sovereign interest. Such an effort is costly for a small nation.

Negotiations for a zonal boundary in the Barents Sea, which began in late 1975, stalemated over methods of determining the boundary. Moscow would extend the line from the territorial sea boundary along a longitudinal or sector line to the north pole. The Norwegians have offered to negotiate a compromise on their position that the line be drawn equidistant from adjacent land areas. The Soviets thus far have not been willing to concede any part of their claim. Negotiations on these questions will resume early next year.

The objectives of Norway's fishermen, generals, and political leaders in the establishment of the economic zones do not coincide. The military wants to restrict Soviet control over the naval routes along the Norwegian coastline and over the many islands in the western Barents Sea. Political leaders are looking for ways to maximize the profits from the national economic

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zone. Geological surveys indicate the greatest oil potential to be in the eastern, mostly Soviet areas, which are either under dispute or unquestionably Soviet. Fishing interests want dual control over migrating stocks. They are willing to exchange fishing rights on western grounds for restrictions on immature fishing stocks in the undisputed Soviet zone. Evensen, who supported the fishermen's position in negotiating the gray zone fishing accord, came under fire from conservative politicians and military leaders. This domestic conflict has led the Nordli government to press harder for an agreement on zonal boundaries.

Press Reports

In this atmosphere of continuing unproductive efforts the Norwegian press has focused on the Soviet presence and activities in the area and most recently has highlighted a Soviet military aircraft crash on one of the Svalbard islands.

Since June the press has reported an unprecedented number of Soviet merchant ship incursions into Norwegian territorial waters. In August the discovery of a radar within the Soviet compound on Svalbard was followed by reports and aerial photographs claiming to show airstrip construction in the same area. Both were viewed as violations of Norwegian sovereignty and of the treaty prohibition on military-related activities on the islands. The press also reported on Soviet geological prospecting on Bear Island and implied that mining operations might be a cover for intelligence gathering. Soviet enforcement of fishing regulations over third country trawlers operating in the Barents Sea gray zone under Norwegian license was also prominently reported in the press.

The purpose of the press attention seems to be to put pressure on the government to be firm with the Soviets on the northern issues, and probably also to build public support for increased investment in maritime surveillance and enforcement capabilities. The government has responded by attempting to cool the domestic reactions, but also to appear to be dealing firmly with the Soviets.

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NATO-Greece: Military Reintegration Problems

Greek-Turkish bilateral differences are complicating the reintegration of Greece into NATO's military side. Turkey is objecting to proposals NATO Supreme Commander Haig worked out in talks with Greek military officials earlier this year. NATO's Military Committee began its review of the matter last week.

Greece withdrew from NATO's integrated military command in August 1974 to protest the West's response to the Turkish intervention in Cyprus. Earlier this year, Athens expressed a desire to return. Continuing Greek-Turkish differences over the Aegean and Cyprus, however, still cloud the prospect that Turkey will agree with the other NATO members on terms for Greece to resume a role in the military side of the Alliance.

NATO's Military Committee last week began its review of the proposals for Greece's reentry developed during General Haig's talks with Greek officials in June. These proposals would:

- Reactivate a Greek-led NATO naval command.
- Establish on Greek soil separate NATO ground and air commands similar to those the Turks took over this year at Izmir in western Turkey.
- Retain, on an "interim basis," the Greeks' air and sea areas of responsibility in the Aegean as they existed to August of 1974.

The Turks are negative about these proposed arrangements. Ankara argues that Athens would not be committing forces to NATO commensurate with the commands it would

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have and that the "interim" demarcation of command areas in the Aegean would harm Alliance security and prejudice ongoing bilateral negotiations, in which the Turks hope to increase their Aegean role. The Turks have said that they are prepared for extended talks within NATO on Greek reintegration.

Turkey needs increased Western economic assistance and faces not only the Aegean negotiations with Greece but also talks on the future of the US bases in Turkey. Ankara has implied that it will be seeking an advantageous "package" deal and hopes to exercise the "last word" on Greek reentry. [redacted]

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